

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v. Criminal Case No. 1:13-00154-04

ANSEL WILLIAM PONDER

MEMORANDUM OPINION AND ORDER

In Bluefield, on August 7, 2013, came the defendant Ansel William Ponder, in person and by counsel, Michael R. Whitt, and came the United States by Miller A. Bushong, III, Assistant United States Attorney, for purposes of considering the defendant's plea of guilty to Count Thirty-Five of the Indictment charging him with using a telephone to commit a drug crime, in violation of Title 21, United States Code, Section 843(b). Peggy Adams appeared on behalf of the United States Probation Department.

For reasons appearing before the court during the change of plea hearing, the court granted an oral motion by the United States to continue the defendant's plea hearing generally. The court finds that the time from the United States' oral motion to continue until trial is excludable for purposes of the Speedy Trial Act. First, such time is excludable as delay under 18 U.S.C. § 3161(h)(1)(G) because the court, after hearing from

both sides at defendant's change of plea hearing, has taken a proposed plea agreement in this case under consideration. Alternatively, such time is also excludable under 18 U.S.C. § 3161(h)(6) so long as the delay is reasonable because the court previously granted a continuance for good cause to one of defendant's co-defendants in this case, thus delaying the co-defendant's trial date. See Doc. No. 290 (granting co-defendant a continuance so that a new attorney for co-defendant could be appointed and have time to prepare co-defendant's case).

The Clerk is directed to send a copy of this Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

It is so **ORDERED** on this 15th day of August, 2013.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge